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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

v.

September 3, 2024

JOSEPH BONGIOVANNI ,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF CHERYL PANZARELLA
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221
And

LAW OFFICES OF PARKER ROY MacKAY
BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
Kenmore, New York 14217
And

OSBORN, REED & BURKE, LLP
BY: JOHN J. GILSENAN, ESQ.
120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
3 Robert H. Jackson Federal Courthouse
4 2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * *

7 (Excerpt commenced at 4:02 p.m.)

8 (Jury is present.)

9 **THE COURT:** Okay. And the government can call its
10 next witness.

11 | MS. CHALBECK: Ms. Demma, can I hand this to you?

13 MS. CHALBECK: Thank you, ma'am.

14 The government calls Cheryl Panzarella.

15
16 **C H E R Y L P A N Z A R E L L A**, having been duly called and
17 sworn, testified as follows:

18 MS. CHALBECK: May I inquire, Judge?

19 THE COURT: You may.

DIRECT EXAMINATION BY MS. CHALBECK:

22 Q. Good afternoon, Ms. Panzarella. Can you introduce
23 yourself to the jury?

24 A Yes My name is Cheryl Panzarella

25 Q. And where do you work, Ms. Panzarella?

04:04PM 1 A. I work at the DEA.

04:04PM 2 Q. And what do you do there?

04:04PM 3 A. I'm the office assistant.

04:04PM 4 Q. How long have you been working for the DEA?

04:04PM 5 A. I've worked for the DEA for 40 years.

04:04PM 6 Q. And prior to being the office assistant, did you have

04:04PM 7 some other position with the DEA?

04:04PM 8 A. Two other positions.

04:04PM 9 **THE COURT:** Could you speak right into the
04:04PM 10 microphone?

04:04PM 11 **THE WITNESS:** Two other positions.

04:04PM 12 **BY MS. CHALBECK:**

04:04PM 13 Q. Can you tell the jury what those positions were?

04:04PM 14 A. I was hired -- I was hired as a clerk steno. And I was
04:04PM 15 hired as a -- investigative assistant, and then office
04:04PM 16 assistant now. So I've had three jobs there.

04:04PM 17 Q. At one point, were you what's called a property custodial
04:04PM 18 assistant?

04:04PM 19 A. Yes.

04:04PM 20 Q. Okay. Were you a property custodial assistant in 2019?

04:05PM 21 A. Yes.

04:05PM 22 Q. And can you explain to the jury what your duties were as
04:05PM 23 a property custodial assistant --

04:05PM 24 A. Yes.

04:05PM 25 Q. -- at that time?

04:05PM 1 A. As a property custodial assistant, you're responsible for
04:05PM 2 keeping track of all the property that is handed out that is
04:05PM 3 owned by the government. So, computers, cell phones, things
04:05PM 4 like that. And that's basically it in a nut shell.

04:05PM 5 Q. And let me just ask a quick follow-up question. When you
04:05PM 6 say "property that is handed out," this is -- are you
04:05PM 7 referring to property that the DEA provides its employees
04:05PM 8 including special agents?

04:05PM 9 A. Yes.

04:05PM 10 Q. Okay. It's not just like property that DEA is just
04:05PM 11 giving away?

04:05PM 12 A. Oh, no.

04:05PM 13 Q. Okay. And among the property that is -- withdrawn.

04:05PM 14 Are cell phones among the property that the DEA issues
04:06PM 15 its special agents?

04:06PM 16 A. Yes.

04:06PM 17 Q. Okay. I'm going to return to that in just a minute,
04:06PM 18 Ms. Panzarella, but first I want to ask you if you know an
04:06PM 19 individual by the name of Joseph Bongiovanni.

04:06PM 20 A. Yes, I do.

04:06PM 21 Q. How do you know that person?

04:06PM 22 A. He worked with me at the DEA.

04:06PM 23 Q. Do you see him present in the courtroom?

04:06PM 24 A. I do.

04:06PM 25 Q. Can you identify him by an article of clothing that he's

04:06PM 1 wearing?

04:06PM 2 A. Light blue tie.

04:06PM 3 Q. There are two blue ties.

04:06PM 4 A. White shirt.

04:06PM 5 Q. Okay.

04:06PM 6 **MS. CHALBECK:** Your Honor, may the record reflect
04:06PM 7 that the witness identified the defendant?

04:06PM 8 **THE COURT:** It does.

04:06PM 9 **MS. CHALBECK:** Thank you, Your Honor.

04:06PM 10 **BY MS. CHALBECK:**

04:06PM 11 Q. You mentioned that you know the defendant through work;
04:06PM 12 is that correct?

04:06PM 13 A. Yes.

04:06PM 14 Q. Would you -- how would you characterize the kind of,
04:06PM 15 like, work relationship that you had with the defendant?

04:06PM 16 A. We were friends.

04:06PM 17 Q. Do you recall approximately when the defendant retired
04:07PM 18 from the DEA?

04:07PM 19 A. Maybe the end of January 2019, I think.

04:07PM 20 Q. And did the defendant turn in his DEA-issued cell phone
04:07PM 21 prior to his retirement?

04:07PM 22 A. Yes.

04:07PM 23 Q. Did you come to learn that the defendant had wiped that
04:07PM 24 cell phone?

04:07PM 25 A. Yes.

04:07PM 1 Q. Okay. Was there ever a time when you had possession of
04:07PM 2 the defendant's phone after he turned it in?

04:07PM 3 A. Yes.

04:07PM 4 Q. And did you ever give that phone to someone else?

04:07PM 5 A. I did.

04:07PM 6 Q. Who did you give that phone to?

04:07PM 7 A. I turned it over to the resident agent in charge at the
04:07PM 8 time, Edward Orgon.

04:07PM 9 Q. Okay. And I'm going to ask you just another couple of
04:07PM 10 questions and then we'll -- we'll hopefully get you out of
04:07PM 11 here soon. You mentioned that you were work friends with the
04:08PM 12 defendant. Were you surprised when he retired?

04:08PM 13 A. A little bit.

04:08PM 14 Q. Can you explain that to the jury, please?

04:08PM 15 A. Well, he came to me and said, you know, Friday is my last
04:08PM 16 day here, Cheryl. And I was surprised. And I said, no, why?
04:08PM 17 And he said, well, my --

04:08PM 18 Q. Hold on. Not trying to get into anyone else's
04:08PM 19 statements. I just wanted to know if you were surprised.

04:08PM 20 A. Yes.

04:08PM 21 Q. And you said that he -- that Friday was his last day, he
04:08PM 22 told you that Friday was his last day?

04:08PM 23 A. Yes.

04:08PM 24 Q. When in the week did this occur?

04:08PM 25 A. I think it was a Monday, but that's a guess.

04:08PM 1 Q. Okay.

04:08PM 2 **MS. CHALBECK:** One moment, please.

04:09PM 3 No further direct, Your Honor.

04:09PM 4 **THE COURT:** Any cross?

04:09PM 5 **MR. MacKAY:** Yes, Judge.

04:09PM 6

04:09PM 7 **CROSS-EXAMINATION BY MR. MacKAY:**

04:09PM 8 Q. Good afternoon, Ms. Panzarella. How are you?

04:09PM 9 A. Good, thank you.

04:09PM 10 Q. So one of your jobs was, I think it was property
04:09PM 11 custodian, correct?

04:09PM 12 A. Correct.

04:09PM 13 Q. So over the years at the DEA, you dealt with, for
04:09PM 14 example, agents turning in property when they were done with
04:09PM 15 their -- their time at the DEA, correct?

04:09PM 16 A. Yes.

04:09PM 17 Q. Meaning that, like, they can't take their government cell
04:09PM 18 phones home with them, for example, correct?

04:09PM 19 A. After they retire?

04:09PM 20 Q. Yes.

04:09PM 21 A. No.

04:09PM 22 Q. Okay. And in -- so, in -- just to be clear, you've dealt
04:09PM 23 with that quite a few times where you have had to get those
04:09PM 24 cell phones back, correct?

04:09PM 25 A. Yes.

04:09PM 1 Q. And fair to say that standard practice was the agents
04:09PM 2 would wipe those prior to giving those back to you?

04:09PM 3 A. Yes.

04:09PM 4 Q. Okay. Prior, meaning that you would take custody of the
04:09PM 5 phones when you would get them from the agents, correct?

04:09PM 6 A. Yes.

04:09PM 7 Q. And you would receive them, and it was routine practice
04:10PM 8 that they were already wiped before you got possession of
04:10PM 9 them, correct?

04:10PM 10 A. Yes. Yes.

04:10PM 11 **MR. MacKAY:** Nothing further. Thank you,
04:10PM 12 Ms. Panzarella.

04:10PM 13 **THE WITNESS:** You're welcome.

04:10PM 14 **THE COURT:** Anything more, Ms. Chalbeck?

04:10PM 15 **MS. CHALBECK:** Yes, Your Honor.

04:10PM 16

04:10PM 17 **REDIRECT EXAMINATION BY MS. CHALBECK:**

04:10PM 18 Q. Ms. Panzarella, just one more question.

04:10PM 19 A. Sure.

04:10PM 20 Q. When the defendant told you that he was going to retire
04:10PM 21 at the end of the week and it surprised you, did he mention
04:10PM 22 that he was under investigation by the DEA at that time?

04:10PM 23 A. No.

04:10PM 24 **MR. SINGER:** Objection, beyond the scope.

04:10PM 25 **THE COURT:** Stop. Yes, sustained.

04:10PM 1 **MS. CHALBECK:** No further --
04:10PM 2 **THE COURT:** The jury will strike that question and
04:10PM 3 answer, and you can step down, ma'am. Thank you.

04:10PM 4 **THE WITNESS:** Thank you.

04:10PM 5 (Witness excused at 4:10 p.m.)

04:10PM 6 (Excerpt concluded at 4:10 p.m.)

04:10PM 7 * * * * *

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11 CERTIFICATE OF REPORTER

12

13 In accordance with 28, U.S.C., 753(b), I
14 certify that these original notes are a true and correct
15 record of proceedings in the United States District Court for
16 the Western District of New York on September 3, 2024.

17

18

19

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.

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6 **SEPTEMBER 3, 2024**
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